

SUMMARY ANALYSIS OF AMENDED BILL

Author: Figueroa Analyst: Colin Stevens Bill Number: AB 1702

Related Bills: See Prior Analysis Telephone: 845-3036 Amended Date: 3-12-98

Attorney: Doug Bramhall

Sponsor:

SUBJECT: Employer Provided Public Transit Passes Credit

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.

☒ FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED January 26, 1998, STILL APPLIES.

OTHER - See comments below.

SUMMARY OF BILL

Under the Personal Income Tax Law (PITL) and Bank and Corporation Tax Law (B&CTL), this bill would allow a credit equal to 40% of the cost paid or incurred by an employer for providing subsidized public transit passes to an employee who lives in California.

SUMMARY OF AMENDMENT

The March 12, 1998, amendments:

- clarify under the PITL provision that an "employee" must reside in California to make the employer eligible for a tax credit;
- under the B&CTL, limit the carryover period for unused credits to 11 years after the credit is allowed;
- require the California Research Bureau to submit a report to the Legislature by January 1, 2002, on the cost of the tax credit allowed by this section and on transit ridership; and
- made a technical correction noted in the department's prior analysis.

Except for the changes discussed above, which address the department's policy and technical considerations, the department's analysis of the bill as introduced

DEPARTMENTS THAT MAY BE AFFECTED:

___ STATE MANDATE

___ GOVERNOR'S APPOINTMENT

Board Position:

___ S ___ O
___ SA ___ OUA
___ N ___ NP
___ NA ___ NAR
☒ PENDING

Agency Secretary Position:

___ S ___ O
___ SA ___ OUA
___ N ___ NP
___ NA ___ NAR
DEFER TO _____

GOVERNOR'S OFFICE USE

Position Approved ___
Position Disapproved ___
Position Noted ___

Department/Legislative Director Date
Johnnie Lou Rosas 3/23/98

Agency Secretary Date

By: Date:

January 26, 1998, still applies. Two technical concerns resulting from the amendments have been noted below.

Technical Considerations

The B&CTL language has been amended to limit the credit carryover to 11 years. However, the PITL language has not been limited. The author's office has indicated that the PITL credit is intended to be limited to the same 11 year carryover as the B&CTL. Additionally, the B&CTL language does not appear to clearly limit the carryover as intended. Amendments 2 and 4 would add a limited carryover to the PITL and clarify that carryover under the B&CTL would be limited to 11 years.

Under the PITL, this bill would require that an employee reside in California to make a taxpayer eligible for a credit. However, the B&CTL does not contain a similar provision. Moreover, a requirement that an employee reside in California may be subject constitutional challenge under the Commerce Clause of the United States Constitution. A different method might require that employees be employed in California for the employer to claim the credit.

The word "of" has been inserted in front of the description of the amount of credit that would be allowed under both PITL and B&CTL. This term is unnecessary and is different from standard credit language. Amendments 1 and 3 would delete this unnecessary and potentially confusing language.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 1702
As Amended March 12, 1998

AMENDMENT 1

On page 2 line 6, strike "of"

AMENDMENT 2

On page 2, strike lines 11 and 12 and insert:

"net tax," in the following year and the next 10 succeeding years if necessary, or until the credit has been exhausted, whichever occurs first.

AMENDMENT 3

On page 2 line 32, strike "of"

AMENDMENT 4

On page 2, strike lines 37 and 38 and insert:

in the following year and the next 10 succeeding years if necessary, or until the credit has been exhausted, whichever occurs first.